

**Assembly Bill No. 2986**

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Passed the Assembly August 29, 2008

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*Chief Clerk of the Assembly*

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Passed the Senate August 26, 2008

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 75050.2 of the Public Resources Code, and to amend Section 13167 of, and to add and repeal Chapter 18 (commencing with Section 14080) of Division 7 of, the Water Code, relating to water quality.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2986, Leno. Water quality.

(1) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for publicly owned treatment works and other dischargers in accordance with the Porter-Cologne Water Quality Control Act (state act) and the federal Clean Water Act. Existing law, commencing the year in which funding is provided, requires the state board to develop a uniform overflow event report form to be used by the system owner or operator to report sanitary sewer system overflows. Existing law, commencing the year in which funding is provided, requires a database on sanitary sewer system overflows and spills to be developed and made available to the public.

This bill would require the state board, commencing January 1, 2011, to issue annually a letter grade, as specified, for each separate sanitary sewer system, sewage treatment plant, combined sewer system, and combined sewer system treatment plant in the state that is subject to waste discharge requirements in accordance with letter grading methodologies that the state board would be required to establish. The state board would be required, by January 1, 2010, to establish a methodology for measuring a sewage treatment plant's peaking factor for specified flows, to designate a prescribed peaking factor or factors, and to establish, as necessary, monitoring and reporting requirements to measure peaking factors.

The bill would require the state board, by July 1, 2010, and by July 1 of each year thereafter, to establish a list of all sewage treatment plants that treat waste collected from separate sanitary sewer systems and for which the state board makes specified findings. A satellite sewer system, as defined, that discharges sewage to a sewage treatment plant that has been placed on that

list would be required to install and operate flow meters or employ another methodology to estimate satellite sewer system flows that is approved by the state board or a regional board, for at least 3 years, as described, unless the state board or the appropriate regional board makes a specified finding regarding the satellite sewer system.

The bill would revise requirements relating to a public information program that the state board is required to implement with the assistance of the regional boards under the state act. Permits, waste discharge requirements, quarterly monitoring reports, the grades and list discussed above, and other water quality information would be required to be placed in a specified information file and maintained on the state board's Internet Web site in accordance with a prescribed timeframe.

The bill would require the state board to impose fees upon owners and operators of separate sanitary sewer systems, sewage treatment plants, combined sewer systems, and combined sewer system treatment plants, commensurate with the population served by the system, and others subject to waste discharge requirements to finance the prudent implementation of these provisions, including certain aspects of the public information program, as provided. The state board would be required to establish, by regulation, a fee schedule so that the total amount of fees collected does not exceed the amount necessary to recover costs incurred in the implementation of these provisions, subject to a specified maximum amount. The bill would require the state board to deposit the fees in the Waste Discharge Permit Fund. The moneys in the fund would be available, upon appropriation by the Legislature, to the state board for expenditure by the state board and for allocation to the regional boards, as appropriate, to implement these provisions.

All of these provisions, except those that would revise the public information program, would be repealed on January 1, 2017.

(2) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, makes available, upon appropriation by the Legislature, \$90,000,000 to the state board for matching grants to local public agencies to reduce and prevent stormwater contamination of rivers,

lakes, and streams. Existing law establishes a list of projects that are eligible to receive funding pursuant to this stormwater program.

This bill would specify that, under prescribed circumstances and upon appropriation for those purposes, projects to install flow meters or implement other flow estimation methods approved by the state board to measure infiltration and specified stormwater impacts, and projects to assist with certain sanitary sewer system and combined sewer system improvements to reduce stormwater inflow and infiltration, are eligible to receive funding pursuant to this stormwater program.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the California Clean Water Act.

SEC. 2. Section 75050.2 of the Public Resources Code is amended to read:

75050.2. (a) The state board shall develop project selection and evaluation guidelines for the allocation of funds made available pursuant to subdivision (m) of Section 75050. Upon appropriation, the funds shall be available for matching grants to local public agencies, not to exceed five million dollars (\$5,000,000) per project, for projects to achieve any of the following purposes in accordance with the requirements of that subdivision:

(1) Complying with total maximum daily load requirements established pursuant to Section 303(d) of the Clean Water Act (33 U.S.C. Sec. 1313(d)) and this division where pollutant loads have been allocated to stormwater, including, but not limited to, metals, pathogens, and trash pollutants.

(2) Assistance in implementing low-impact development and other onsite and regional practices, on public and private lands, that seek to maintain predevelopment hydrology for existing and new development and redevelopment projects. Projects funded pursuant to this paragraph shall be designed to infiltrate, filter, store, evaporate, or retain runoff in close proximity to the source of water.

(3) Implementing treatment and source control practices to meet design and performance standard requirements for new development.

(4) Treating and recycling stormwater discharge.

(5) Implementing improvements to combined municipal sewer and stormwater systems.

(6) Implementing best management practices, and other measures, required by municipal stormwater permits issued by a California regional water quality control board or the state board.

(7) Assessing project effectiveness, including, but not limited to, monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality.

(8) Installing flow meters, or implementing other flow estimation methods approved by the state board, to measure stormwater impacts resulting from inflow and infiltration pursuant to Section 14082 of the Water Code in satellite sewer systems serving severely disadvantaged communities.

(9) Assistance for separate sanitary sewer systems and combined sewer systems that have received a grade of “C” or lower pursuant to Section 14081 of the Water Code for improvements to reduce stormwater inflow and infiltration in severely disadvantaged communities.

(b) (1) For the purpose of implementing subdivision (a), the state board shall give preference to a project that does one or more of the following:

(A) Supports sustained, long-term water quality improvements.

(B) Is coordinated or consistent with any applicable integrated regional water management plan.

(2) The allocation of funds pursuant to this section shall be consistent with water quality control plans and Section 75072.

(c) The state board shall require grant recipients for projects described in subdivision (a) to assess and report on project effectiveness, which may include monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality resulting from project implementation.

SEC. 3. Section 13167 of the Water Code is amended to read:

13167. (a) The state board shall implement, with the assistance of the regional boards, a public information program on matters involving water quality, and shall place and maintain on its Internet Web site, in a format accessible to the general public, an information file on water quality monitoring, assessment, research, standards, regulation, enforcement, and other pertinent matters.

(b) The information file described in subdivision (a) shall include, but need not be limited to, copies of permits, waste discharge requirements, waivers, enforcement actions, tentative or final administrative enforcement orders, inspection reports, the letter grades assigned to each entity pursuant to Section 14081, the list of entities created by subdivision (c) of Section 14082, and petitions for review of these actions pursuant to this division. The file shall include copies of water quality control plans and policies, including any relevant management agency agreements pursuant to this chapter and Chapter 4 (commencing with Section 13200), and monitoring data, including information or reports required to be submitted to the state board or the regional boards on a quarterly or annual basis, and assessment information, or shall identify Internet links to that information. The state board, in consultation with the regional boards, shall ensure that the information is available in single locations, rather than separately by region, and that the information is presented in a manner easily understandable by the general public.

(c) On or before January 1, 2012, permits, waste discharge requirements, quarterly monitoring reports, the letter grades assigned to each entity pursuant to Section 14081, and the list of entities created by subdivision (c) of Section 14082 shall be placed into the information file and maintained on the state board's Internet Web site pursuant to subdivision (a). On or before January 1, 2015, all other information described in subdivision (b) shall be placed into the information file and maintained on the state board's Internet Web site pursuant to subdivision (a).

(d) The state board or a regional board may require a person subject to waste discharge requirements or permits to submit documents required by the waste discharge requirements or permits in electronic form as prescribed by the relevant board.

(e) Pursuant to Chapter 18 (commencing with Section 14080), the state board shall impose fees upon those persons subject to waste discharge requirements for the purposes of funding the maintenance of the following items on the Internet Web site of the state board:

- (1) Tentative or final administrative enforcement orders.
- (2) Inspection reports.

(3) The letter grades assigned to each entity pursuant to Section 14081 and the list of entities created by subdivision (c) of Section 14082.

(4) Information or reports required to be submitted to the state board or a regional board on a quarterly or annual basis.

SEC. 4. Chapter 18 (commencing with Section 14080) is added to Division 7 of the Water Code, to read:

CHAPTER 18. SEWER SYSTEM GRADING AND WET WEATHER  
FLOWS

14080. For the purposes of this chapter, all of the following terms shall have the following meanings:

(a) “Combined sewer system” means any wastewater collection system that conveys sanitary, commercial, and industrial wastewater and stormwater through a single-pipe collection system to a sewage treatment plant.

(b) “Peaking factor” means the ratio of peak wet weather flows entering sewage treatment plants compared to average dry weather flows entering sewage treatment plants.

(c) “Sanitary sewer overflow” means any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a separate sanitary sewer system. Sanitary sewer overflows include all of the following:

(1) Overflows or releases of untreated or partially treated wastewater that reach the waters of the United States.

(2) Overflows or releases of untreated or partially treated wastewater that do not reach the waters of the United States.

(3) Wastewater backups into buildings or private property that are caused by blockages or flow conditions within the system-maintained portion of a separate sanitary sewer system.

(d) “Satellite sewer system” means the portion, if any, of a separate sanitary sewer system that is owned or operated by an entity or public agency other than the entity or public agency that owns and operates the sewage treatment plant to which the sanitary sewer system is tributary.

(e) “Secondary treatment” means a level of treatment that complies with Section 133.102 of Title 40 of the Code of Federal Regulations.

(f) “Separate sanitary sewer system” means any system of pipes, pump stations, sewer lines, or other conveyances designed and used to collect and convey sanitary sewage, separate from stormwater, to a sewage treatment plant, but does not include privately owned sewer laterals. “Separate sanitary sewer system” includes only those systems that consist of more than one mile of pipes or sewer lines.

(g) “Sewage treatment plant” means any facility used for the treatment of sewage and capable of providing secondary treatment of sewage, unless the owner or operator of the facility has secured a modified permit pursuant to 33 U.S.C. Section 1311(h), in which case the plant is capable of achieving primary treatment or equivalent treatment, as defined in 33 U.S.C. Section 1311(h).

(h) “Waste discharge requirements” means waste discharge requirements prescribed pursuant to this division, including waste discharge requirements issued in accordance with the national pollutant discharge elimination system (NPDES) permit program, the state board’s Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ, adopted May 2, 2006, or subsequent orders by the state board.

14081. (a) Commencing January 1, 2011, the state board shall issue annually a letter grade using a scale consisting of “A,” “B,” “C,” and “F,” and additional letters or symbols such as “plus” or “minus” at the discretion of the state board, for each of the following that is subject to waste discharge requirements:

- (1) A separate sanitary sewer system.
- (2) A sewage treatment plant.
- (3) A combined sewer system.
- (4) A combined sewer system treatment plant.

(b) By July 1, 2009, following consultation with stakeholders, including owners and operators of entities subject to waste discharge requirements and water quality advocates, the state board shall propose a letter grading methodology pursuant to subdivision (a) for each of the following:

- (1) Separate sanitary sewer systems.
- (2) Sewage treatment plants.
- (3) Combined sewer systems.
- (4) Combined sewer system treatment plants.

(c) By July 1, 2010, and after providing public notice and opportunity for public comment, the state board shall establish a

letter grading methodology for each type of system or plant described in subdivision (b).

(d) The state board shall review the letter grading methodologies established pursuant to subdivision (c) every five years commencing with 2015, to determine whether advances in wastewater collection and treatment warrant revisions to the methodologies. The state board shall provide public notice and opportunity for comment prior to making changes to a letter grading methodology.

(e) The letter grading methodology for each separate sanitary sewer system shall include, at a minimum, the number of sanitary sewer overflows for each 100 miles of sewer line, the total volume of sanitary sewer overflows for each 100 miles of sewer line, whether the sewer system may have a higher number or volume of sanitary sewer overflows due to the inclusion of publicly owned sewer laterals, whether the sanitary sewer overflow reached surface waters of the state, and the portion of the sanitary sewer overflow that was contained or cleaned up, if any.

(f) The letter grading methodology for each sewage treatment plant shall be based on unauthorized discharges of untreated or partially treated sewage from a treatment plant that violate waste discharge requirements applicable to the treatment plant.

(g) The letter grading methodology for each combined sewer system shall reflect the combined sewer system's adherence to the system's waste discharge requirements and long-term combined sewer system control plan.

(h) The letter grading methodology for each combined sewer system treatment plant shall be based on unauthorized discharges of untreated or partially treated sewage from a treatment plant that violate waste discharge requirements applicable to the treatment plant.

14082. (a) By July 1, 2009, following consultation with stakeholders, including owners and operators of entities subject to waste discharge requirements and water quality advocates, and after considering the full range of peaking factors in different regions of the state and different separate sanitary sewer system and sewage treatment plant design parameters affecting peaking factors, the state board shall propose a methodology for measuring a sewage treatment plant's peaking factor for purposes of this section, and shall propose a designated peaking factor or peaking

factors for purposes of subdivision (c). The state board shall also propose, as necessary, monitoring and reporting requirements to measure peaking factors.

(b) For the purposes of this section, on or before January 1, 2010, and after providing public notice and opportunity for public comment, the state board shall establish a methodology for measuring a sewage treatment plant's peaking factor for flows entering a sewage treatment plant, and shall designate a peaking factor or peaking factors for the purposes of subdivision (c). The state board shall establish, as necessary, monitoring and reporting requirements to measure peaking factors.

(c) By July 1, 2010, and by July 1 of each year thereafter, the state board, after providing public notice and opportunity for comment, shall establish a list of all sewage treatment plants that treat waste collected from separate sanitary sewer systems and for which the state board finds both of the following:

(1) The sewage treatment plant has experienced a peaking factor that equals or exceeds a designated peaking factor established by the state board.

(2) Peak wet weather flows have either caused or contributed to discharges in violation of waste discharge requirements from the sewage treatment plant, or caused or contributed to a bypass of secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as posted by the Department of Water Resources, or as determined by the state board using locally available hydrologic data.

(d) The state board may review periodically, and modify if necessary, the designated peaking factor established in subdivision (b) to reflect current information about the levels of peak wet weather flow that correlate with increased risk of sanitary sewer overflows, or discharges in violation of waste discharge requirements.

(e) (1) Any satellite sewer system that discharges sewage to a sewage treatment plant that has been placed on the list pursuant to subdivision (c) shall, within two years of that placement, install and operate flow meters, or employ another methodology to estimate satellite sewer system flows that is approved by the state board or a regional board, in order to measure or accurately estimate average dry weather flows and peak wet weather flows to the sewage treatment plant, for at least three years.

(2) Paragraph (1) does not apply if the state board or a regional board finds, based on substantial evidence, that the satellite sewer system's contribution of wet weather peak flows does not pose a risk of causing or contributing to discharges in violation of waste discharge requirements or causes or contributes to a bypass of secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as determined by the state board.

(f) The satellite sewer system shall continue to operate the flow meters or employ other flow estimation methodologies required pursuant to subdivision (e) unless either the sewage treatment plant to which it discharges is removed from the list established pursuant to subdivision (c) or the state board or a regional board finds, based on substantial evidence, that the satellite sewer system's additional contribution of wet weather peak flows no longer poses a risk of causing or contributing to discharges in violation of waste discharge requirements or causes or contributes to a bypass of secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as determined by the state board. Before making that finding, the state board shall provide public notice and opportunity for comment.

14083. (a) The state board shall impose fees upon owners and operators of separate sanitary sewer systems, sewage treatment plants, combined sewer systems, and combined sewer system treatment plants, commensurate with the population served by the system, for the purposes of funding the state board's implementation of Sections 14081 and 14082, and upon those persons subject to waste discharge requirements for the purposes of funding implementation of subdivision (e) of Section 13167, as determined by the state board, to finance the prudent implementation of this chapter and subdivision (e) of Section 13167.

(b) (1) On or before July 1, 2009, the state board shall establish, by regulation, a fee schedule so that the total amount of fees collected pursuant to this section does not exceed the amount necessary to recover costs, including, but not limited to, initial startup costs and ongoing administrative costs, incurred in the implementation of this chapter and subdivision (e) of Section 13167. The total amount of fees assessed annually to fund the

implementation of this chapter shall not exceed three million five hundred thousand dollars (\$3,500,000).

(2) Any fee imposed pursuant to this section shall be consistent with all applicable legal requirements for imposing fees, including the requirements set forth in *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.

(c) The fees shall be deposited in the Waste Discharge Permit Fund. Moneys deposited into the fund pursuant to this section shall be available, upon appropriation by the Legislature, to the state board for expenditure by the state board and for allocation to regional boards, as appropriate, to implement this chapter and subdivision (e) of Section 13167.

14084. This chapter shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.







Approved \_\_\_\_\_, 2008

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*Governor*